

FILED

OCT 20 2014

JULIA C. DUDLEY CLERK
BY:  DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

RUSSELL ADAM PELLETIER,
Petitioner,

Case No. 7:14-cv-00479

v.

MEMORANDUM OPINION

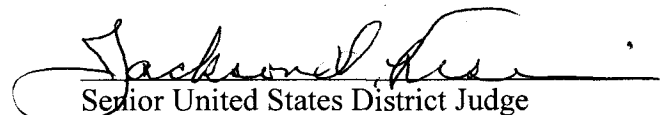
COMMONWEALTH OF VIRGINIA,
Respondent.

By: **Hon. Jackson L. Kiser**
Senior United States District Judge

By its September 12, 2014, Order, the court notified Petitioner of its intent to construe and address his “Declaratory Judgment and Judicial Notice of Laws” as a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. The Order advised Petitioner that he should complete and return a form § 2254 motion if he intended to raise the arguments in his “Declaratory Judgment and Judicial Notice of Laws” as a collateral attack on his state sentence. Petitioner has responded, indicating that he objects to the court’s construction of the “Declaratory Judgment and Judicial Notice of Laws” as a § 2254 petition. Instead, Petitioner says he attacks “the fraudulent right of [Virginia] to have ever prosecuted, convicted, and detain [Petitioner] for anything. . . . [and] the fact that the state never had jurisdiction over him and has treated him as property (a slave).”

Thus, I will not treat the “Declaratory Judgment and Judicial Notice of Laws” as a petition for a writ of habeas corpus, and I find that I lack jurisdiction over the frivolous “Declaratory Judgment and Judicial Notice of Laws.” Accordingly, this action is dismissed without prejudice.

ENTER: This 20th day of October, 2014.


Senior United States District Judge